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October 25, 2010

VIA ECF AND FEDERAL EXPRESS

The Honorable Leonard D. Wexler
United States District Court
Eastern District of New York
944 Federal Plaza
Central Islip, New York 11722

Re: *Gerard DePascale, et al. v. Sylvania Electric Products, Inc., et al.*
07-CV-3558 (LDW) (ARL)

Dear Judge Wexler:

We represent the Defendants in the above referenced action. On October 6, 2010, the Court issued an Order that, *inter alia*, directed counsel to confer and report within one week regarding the status of preparation and proposed dates for the re-trial previously ordered by the Court. The Court subsequently extended until today the date for the parties to report back to Your Honor. In accordance with the Court's direction, the parties have conferred on the relevant issues, and I write on behalf of the parties to advise the Court of the parties' respective views regarding dates for the re-trial as set out in the Court's April 30, 2010 Order and of the status of preparation for the re-trial.¹

As an initial matter, following Plaintiffs' request, the parties have agreed to participate in mediation in an effort to consensually resolve this matter.

With respect to the date of the re-trial, the parties have been unable to come to an agreement on a proposed time frame that works for both sides. Plaintiffs have proposed that the re-trial take place in December of this year or early next year, but in any event, sometime within the next six months. While Defendants are prepared to conduct the re-trial in December if that is the Court's preference, we do not believe setting a December trial date is the most sensible course given the parties' plan to explore a potential consensual resolution through the mediation process. Unfortunately, between the beginning of 2011 and the end of May 2011, I currently have on my

¹ Plaintiffs' counsel has reviewed this letter and approved of its content.

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schedule three trials in other matters where I am lead trial counsel, including one nine-week jury trial on the West Coast. Thus, if the re-trial is not scheduled during this calendar year, it will be difficult for Defendants to conduct the re-trial until the end of Spring 2011. Accordingly, Defendants request that the Court schedule the re-trial, which Defendants believe can be completed in a week or less, for sometime after May 2011.

Plaintiffs state the following position: "Waiting until May of 2011 will prejudice Plaintiffs because of Plaintiffs' health problems and will not necessarily facilitate a more meaningful mediation process nor will it lead to a more timely informal resolution. Plaintiffs' counsel believes that parties are more amenable to settlement the closer they get to trial."

Further, during the meet and confer process, the parties discussed other issues implicated by a re-trial of the government contractor defense, including the need for, and scope of, potential additional discovery. The parties agreed to continue discussing these issues as their preparation for trial evolves, with the hope and expectation that the parties will be able to reach agreements on these issues without requiring the Court's involvement.

Finally, as part of the meet and confer discussions, Plaintiffs inquired whether Defendants would consent to their request for permission to file a summary judgment motion on Defendants' government contractor defense. Defendants declined that request.

The parties appreciate the Court's attention to this matter and are available at the Court's convenience to address any questions the Court may have with respect to these issues.

Respectfully submitted,

William H. Pratt /s/

William H. Pratt

cc: Counsel of Record (via ECF and e-mail)